

CHARLES DAVID KING, JR.,)
)
 Plaintiff,)
)
 v.) **CIVIL ACTION**
) **FILE NO.: CL14000127-00**
)
 BLACKPOWDER PRODUCTS,)
 INC.,)
)
 and)
)
 WAL-MART STORES EAST, LP,)

COME NOW, Defendants Blackpowder Products, Inc. (“BPI”) and Wal-Mart Stores East, LP (“Wal-Mart”) (collectively “Defendants”), by and through undersigned counsel, and, pursuant to Fed. R. Civ. Pro. 56, moves for partial summary judgment on Plaintiff’s Counts II, VII, VII and IX as a matter of law. The basis for the motion is there is no genuine as to any material fact as to the claims asserted in Counts II, VII, VIII and IX, all as more further appears from the responses to discovery, the deposition and sworn testimony of the Plaintiff, Plaintiff’s expert, Mr. William Dudley McGarity, and Dr. Eric Guyer.

Case 7:15-cv-00212-GEC Document 23 Filed 05/16/16 Page 1 of 3 Pageid#: 420

This 16th day of May, 2016.

/s/ James E. Singer

JAMES E. SINGER

(Admitted *Pro Hac Vice*)

**BOVIS, KYLE, BURCH &
MEDLIN, LLC**

200 Ashford Center North, Suite 00

Atlanta, GA 30338-2668

Telephone: (770) 391-9100

Facsimile: (770) 668-0878

jes@boviskyle.com

and

WALTER H. PEAKE, III

Virginia Bar No. 26379

**FRITH, ANDERSON &
PEAKE, P.C.**

29 Franklin Rd., S.W.

Roanoke, VA 24011

Telephone: (540) 725-3362

Facsimile: (540) 772-9167

wpeake@faplawfirm.com

Attorneys for Defendants

Blackpowder Products,

Inc. and Wal-Mart Stores East, LP

CERTIFICATE OF SERVICE

I hereby certify the foregoing *Defendants' Motion For Partial Summary Judgment* has been served on all counsel via e-mail using the CM/ECF filing system, which will send notification of such filing to the following attorneys of record:

Joseph H. McGrady, Esq.
McGrady & McGrady
127 Mill Street
Hillsville, VA 24343
joseph@mcgradylaw.com

Timothy E. Kirtner, Esq.
Gilmer, Sadler, Ingram, Sutherland & Hutton
P. O. Box 878
Pulaski, VA 24301
tkirtner@gsish.com

This 16th day of May, 2016.

/s/ James E. Singer
JAMES E. SINGER
(Admitted *Pro Hac Vice*)
**BOVIS, KYLE, BURCH &
MEDLIN, LLC**
200 Ashford Center North, Suite 500
Atlanta, GA 30338-2668
Telephone: (770) 391-9100
Facsimile: (770) 668-0878
jes@boviskyle.com

*One of the Attorneys for Defendants
Blackpowder Products, Inc.,
and Wal-Mart Stores East, LP*